



MEMORANDUM

To: Los Angeles County Environmental Review Board

From: Primo Tapia, Envicom Corporation

Date: January 22, 2014

**Re: Response to ERB Recommendations
Malibu Institute (Project No. TR071735)**

The purpose of this memorandum is to show how the recommendations of the Los Angeles County Environmental Review Board (ERB) have been addressed in environmental documents prepared for the Malibu Institute Project (Project No. TR071735 or "Project"). The Project site is located in the unincorporated Coastal Zone of the Santa Monica Mountains at 901 Encinal Canyon Road, Malibu, California, 90265. The proposed Project involves the development of a retreat center, redesigned golf course, and appurtenant facilities on an existing golf club site. On November 19, 2012, the ERB provided six comments and recommendations, which have been addressed in the Draft Environmental Impact Report (Draft EIR) and Biota Report (Envicom, 2013). Each ERB comment is provided below followed by a response with references to the appropriate environmental document.

A CD containing the biota report along with a copy of the Draft EIR and minutes from the November 19, 2012 ERB meeting is provided for your reference.

ERB Recommendation #1 – Rainbow and Steelhead Trout

Trancas Canyon supports a population of rainbow trout (*Oncorhynchus mykiss irideus*) and has been identified as a potential watershed for the re-establishment of a passage for anadromous steelhead (CalTrout 2006). Provide a discussion of habitat values and identify passage impediments for steelhead within the project site. Incorporate habitat buffers and features to improve steelhead passage in the design of the project. The passage concept is available from CDFG; a public meeting to discuss the passage will be held in Ventura in January 2013.

The discussion of habitat values to steelhead within the Project site is limited to the unsuitability of the Project site for anadromous steelhead and non-anadromous rainbow trout (Biota Report, pages 41 – 44, Envicom, 2013). Anadromous southern steelhead are precluded from occurring in the upper Trancas Canyon Watershed at, or in the vicinity of, the Project site by a nearly three meter high natural waterfall within Trancas Canyon Creek above a bedrock cascade. The waterfall is roughly one mile downstream from the Project site and considered the absolute natural limit to upstream steelhead migration in the watershed (Cal Trout, Inc., 2006). Also



according to the Cal Trout study, the large artificial flood control channel in the lower reaches of Trancas Canyon Creek near the Malibu West development is likely impassible to steelhead at all times (Biota Report, page 43). Passage impediments to steelhead within the Project site were not identified or discussed because of the natural barriers to their upstream movement located downstream from the Project site.

If non-anadromous rainbow trout are still present in the Trancas Canyon Watershed, the trout could potentially be found in Trancas Canyon Creek or its tributaries wherever there is year-round water and suitable habitat, including upstream from the aforementioned natural limit to steelhead migration. However, non-anadromous rainbow trout are not expected at the golf course ponds due to the presence of large, predatory fish, including largemouth bass. Also, the ponds do not provide suitable habitat for *O. mykiss* reproduction (Biota Report, page 43).

Although the passage concept and other relevant sources were reviewed in preparation of the Biota Report, habitat buffers and features to improve steelhead passage were not incorporated into the design of the Project due to the presence of the natural barriers downstream. The Project did, however, consider potential effects of the Project on future reintroduction or return of steelhead to Trancas Canyon Creek.

The CalTrout study selected Trancas Canyon Creek as a “middle priority” stream that should undergo habitat restoration actions, receiving an overall ranking of fifth out of 13 focal watersheds (Biota Report, page 43). Although the steelhead could not occur at the Project site due to natural barriers, they potentially could occur in downstream estuarine and stream habitats. The Project’s upstream location has the potential to effect downstream habitat where steelhead could run if man-made barriers were removed and the steelhead returned naturally or were reintroduced. The Project involves certain mitigation measures intended to prevent degradation of downstream habitats.

- Mitigation Measure 10 prevents impacts to downstream habitats by requiring a Landscaping Plan that includes only non-invasive ornamental plant species or appropriate native plant species in landscaping, bio-detention basins, and bio-swales at the Project site.
- Mitigation Measure 11 prevents impacts to downstream habitats by requiring the development and implementation of a Pest and Invasive Plant Species Management Plan. The plan would protect downstream water quality by avoiding or minimizing the use of chemical fertilizers, insecticides, herbicides, fungicides, and rodenticides and ensuring that toxic chemicals or excessive nutrient loads do not affect native habitats and wildlife. The Plan would include water quality monitoring and the evaluation of water quality test results with respect to potential adverse effects on sensitive species and habitats. Further, pesticides and herbicides used within or near aquatic habitats will be designated for use in aquatic habitats and will be applied with techniques that avoid over-spraying and control application to avoid excessive concentrations.

Finally, the proposed pond cleanouts and removal of invasive species from aquatic habitats at the site is expected to be beneficial to downstream aquatic habitats in the Trancas Canyon Creek and

estuary, further improving habitat for the re-establishment of steelhead (Biota Report, pages 69 & 77). The ponds on the golf course would be temporarily dewatered to eradicate invasive animals, including predatory fish and crayfish. The dewatering process would take place during construction of the proposed remodeled golf course. The conceptual plan to dewater the ponds and eradicate invasive animals from the aquatic habitats at the site is discussed in Appendix 5 of the Biota Report. Vegetation and sediment would be removed from the ponds to improve functional capacity and to remove potentially occurring toxins such as pesticides and herbicides that may have accumulated in bottom sediments. The elimination of a source of invasive crayfish and a potential source of toxins within the watershed would improve the quality of downstream aquatic habitat and benefit native aquatic insects dependent on local freshwater streams (Biota Report Appendix 5, page 10, Katz, 2013). These aquatic insects could serve as a food source to support the diet of re-introduced anadromous steelhead.

ERB Recommendation #2 – Species Surveys

Conduct surveys for shoulderband snails (*Helminthoglypta* spp.), special-status fish, Coast Range newt (*Taricha torosa*), western pond turtle (*Emys marmorata*), and bats. Provide discussions of their potential presence on site and project related impacts.

Shoulderband snails

Trask or Peninsular Range Shoulderband snails are considered potentially present on the Project site (Biota Report, Appendix 4, page 11). Focused surveys for shoulderband snails (*Helminthoglypta* spp.) are incorporated as mitigation in the Draft EIR. As the preferred habitat for shoulderband snails is coastal sage scrub and chaparral, this species may occur within these habitats at the Project site including within the proposed limits of disturbance at the following locations: the proposed helipad site and the chaparral “island” within the golf course where a tee box and pathway to the tee box would be constructed. Potentially significant project related impacts to shoulderband snails include ground and vegetation disturbing activities necessary to construct the tee box, pathway, and maintain the helipad. Shoulderband snails are obviously slow moving and would be incapable of escaping harm. The loss of suitable habitat for shoulderband snails would be less than significant, as the acreage of habitat for these species that would be impacted would be small, particularly when compared to the amount of remaining suitable habitat on the Project site, which would be protected as permanently dedicated open space as a component of the Project (Biota Report, Pages 72-75, Envicom, 2013).

Mitigation measures MM1, MM3, and MM4 in the Biota Report (MM5.3-1, MM5.3-3, MM5.3-4 in the DEIR), would require pre-construction biological surveys and monitoring of ground or vegetation disturbing activities affecting native chaparral and coastal scrub, which would reduce potential impacts that could result from direct mortality or injury to the shoulderband snails to a less than significant level.

In particular, MM4 (MM5.3-4 in the DEIR) requires focused pre-project surveys for shoulderband snails. Prior to ground or vegetation disturbing activities, a terrestrial snail specialist shall conduct surveys in suitable habitats for the Trask shoulderband snail. Prior to construction of the Project, a qualified biologist shall conduct a habitat assessment to locate all

suitable chaparral, coastal sage scrub, and coastal scrub habitats within and directly adjacent to the limits of disturbance that may potentially support the Trask shoulderband snail (Biota Report, page 94).

Special-status fish

Special status fish are not present at or in the vicinity of the Project site as all special-status fish species known to occur in the region are precluded from occurring within the upper Trancas Canyon watershed by barriers to upstream movement or because upper Trancas Canyon is outside their historical range or distribution. Therefore, surveys for special-status fish were not conducted. The Biota report contains discussion of the potential presence of four fishes, none of which were determined present (Appendix 4, pages 12-15).

Coast Range Newt

Focused surveys for the California or Coast Range newt (*Taricha torosa*) were conducted on March 26 and June 3, 2013 by and under the supervision of Dr. L. Katz, Professor of Biology, Pepperdine University (Biota Report, Appendix 6). The surveys were conducted within the on-site stream course that is most likely to be breeding habitat including 160 meters of Trancas Canyon Creek to the east of the entrance to the Malibu Golf Club, the reach of Trancas Canyon Creek where the stream exits the property under Encinal Canyon Road, and 76 meters of the open channel stream on the golf course grounds as well as at the golf course ponds. In addition, upland habitats near the headwaters of Trancas Canyon Creek were searched for newts by turning over logs, rocks, and other debris. Based on these surveys and habitat assessments, the California newt is considered absent from the Project site (Biota Report, pages 44 - 45). The stream habitats that were surveyed are currently unsuitable for newt breeding due to the presence of numerous invasive aquatic animals including crayfish and mosquitofish. With the removal of the invasive animals, the reach of Trancas Canyon Creek at the Project site to the east of the entrance to the Malibu Golf Club could potentially support breeding newts (Biota Report, page 45).

Western Pond Turtle

Focused surveys for the western pond turtle (*Emys marmorata*) were conducted at the three largest golf course ponds between June 13 and 22 and again between mid-July to mid-August by and under the supervision of Dr. Katz (Biota Report, Appendix 6). The surveys involved the daily inspection of baited collapsible mesh traps as well as visual surveys on two days in June. All turtles captured were released back into the ponds. The western pond turtle has been confirmed present at the three largest golf course ponds. Several adult turtles (estimated at 10 individuals) were captured as incidental by-catch in mesh crayfish traps early in 2013 as a part of the ongoing effort to eradicate crayfish from the Project site. Also, focused trapping and visual surveys for the western pond turtle were conducted at the three largest golf course ponds between June 13 and June 22, 2013, and from mid-July to mid-August, 2013. Thirteen (13) adult turtles were captured in collapsible mesh traps and five adult turtles were directly observed. The size of the pond turtles suggests that minimal reproduction is occurring as no smaller turtles were observed, presumably due to the presence of large predatory fish (Biota Report, page 45).

Potential project related impacts to the western pond turtle include ground and vegetation disturbing activities necessary to construct the tee box, pathway, and maintain the helipad,

grading and maintenance of the golf course ponds, and loss and modification of habitat (Biota Report, pages 72-75). Ground and vegetation disturbing activities necessary to construct the modified golf course, including the removal and installation of turf and landscaping could result in potentially significant but mitigable impacts caused by direct mortality or injury to the western pond turtle. This species is slow moving and could be present in burrows or otherwise concealed and incapable of escaping harm.

Mitigation measures MM1 and MM3 (MM5.3-1 and 5.3-3 in the DEIR) would require pre-construction biological surveys and monitoring of ground or vegetation disturbing activities affecting native chaparral, coastal sage scrub, and landscaped areas to reduce potential impacts that could result in direct mortality or injury to western pond turtles that may be present in these areas.

Mitigation measure MM5 (MM5.3-5 in DEIR) requires that a Western Pond Turtle Mitigation and Monitoring Plan for the avoidance of impacts including direct mortality and temporary loss of habitat to the western pond turtle be prepared by a qualified biologist and approved by the Los Angeles County Department of Regional Planning and the California Department of Fish and Wildlife prior to the issuance of a grading permit for the Project (Biota Report, page 95).

The temporary dewatering and drying of the golf course ponds is expected to have a beneficial impact by eradicating the invasive animals and would improve habitat conditions for wildlife at the golf course ponds, including the western pond turtle, as well as within areas downstream from the Project site in the Trancas Canyon Watershed (Biota Report, page 77).

Bats

The potential onsite presence of 16 bat species is discussed in detail in the Biota Report (Appendix 4, pages 22-24). Special-status bats with potential to occur at the Project site could roost, hibernate, or form maternity colonies in trees or man-made structures within the limits of disturbance, such as in culverts, vacant or unoccupied buildings, tree cavities, crevices, exfoliating bark, or by hanging pendant from bark or tree branches. The Project would include demolition of a vacant residence and maintenance sheds, and the removal of 1,590 non-native trees and palms, including many large trees that could potentially contain roosting, hibernating, or breeding bats. Trees supporting bats may also be removed or disturbed by vegetation removal at the golf course ponds. The demolition of uninhabited structures and the felling of trees, particularly larger trees, could result in direct mortality, injury, or disturbance to roosting bats, including hibernating bats or bats raising young (Biota Report, pages 75-76).

Immature bats and hibernating bats that would be unable to escape harm are particularly susceptible to direct impacts. Project activities conducted in the vicinity of occupied hibernacula or maternity roosts could indirectly disturb hibernating or bats raising young, e.g., due to human presence or excessive noise or artificial night lighting. Arousal of hibernating bats could be adverse as bats do not feed during this period and rely on a limited supply of fat for survival during hibernation. Also, bats raising young may abandon roosts when disturbed, which could result in indirect mortality of immature bats if the adults abandon their young. Direct mortality or injury to special-status bats or disturbance to occupied hibernacula or maternity roosts would

have a substantial adverse effect on a wildlife species and would be a significant, but mitigable impact.

Implementation of mitigation measures MM6 and MM7 (MM5.3-6 and MM5.3-7 in the DEIR) would require pre-project surveys and other measures to protect special-status bats.

ERB Recommendation #3 – Reintroduction of California red-legged frog

Discuss the suitability of the site for reintroduction of California red-legged frog (*Rana draytonii*).

The California red-legged frog is likely extirpated from the Santa Monica Mountains and is considered absent from the Project site. The golf course ponds could potentially provide suitable breeding habitat for the California red-legged frog, although the ponds are currently unsuitable habitat for all life stages of the species due to the presence of numerous invasive animals, including predatory fish, mosquito fish, and crayfish (Biota Report, Appendix 4, page 15). As part of the Project, invasive predatory fish and crayfish would be removed from the ponds (Biota Report, page 45). The cleanout of the existing golf course ponds and removal of these invasive species would improve habitat quality for the reintroduction of California red-legged frogs.

ERB Recommendation #4 – Crayfish and bullfrog eradication plan

Develop a crayfish and bullfrog eradication plan for the project.

An invasive animal eradication plan including crayfish has been developed for the Project (See Biota Report, Appendix 5, *Malibu Institute Project: A Plan Toward Restoring Trancas Canyon Creek, a Significant Stream in the Santa Monica Mountains National Recreation Area*). The aquatic habitats on the Project site would be temporarily dewatered to eradicate invasive animals, including predatory fish, crayfish, and mosquito fish. The dewatering process would occur over a period of several months to allow the habitat to completely dry. The dewatering would maximize the probability that invasive species populations would be removed. The pond water would not be discharged to Trancas Canyon Creek, as this could result in the release of invasive species to downstream habitats. As there are no habitats upstream of the golf course ponds that are suitable for predatory fish, crayfish, or mosquito fish, with removal of the invasive animals, there would be no concern of reintroduction of invasive species to the ponds from creeks or tributaries upstream from the Project site. Invasive crayfish would also be removed from the segment of Trancas Canyon Creek to the east of Clubhouse Drive and north of Encinal Canyon Road. After the ponds are refilled, the aquatic habitats would be monitored to determine if invasive animals have been successfully eradicated (Biota Report, page 77). Bullfrogs have not been found at the ponds during surveys by Dr. Katz and are believed to be absent from the Project site.

ERB Recommendation #5 – Storm Water Detention

Incorporate project design features to ensure detention of storm water complies with current RWQCB requirements.

The Project would be required by existing regulations to meet the water quality performance criteria of the County's Municipal Separate Storm Sewer Systems (MS4s) National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements (Order No. R4-2012-0175) issued by the Los Angeles Regional Water Quality Control Board (RWQCB) in 2012 for discharges of urban runoff in public storm drains in Los Angeles County (Draft EIR, Page 5.8-23). Under the regulations in the permit, the effectiveness of stormwater treatment controls is demonstrated by the ability to infiltrate, harvest, and/or biotreat runoff from the 85th percentile rainfall event or the 0.75-inch event, with other types of treatment allowed if these measures are demonstrated to be infeasible onsite. The BMPs proposed for incorporation into the project design will accomplish the level of reduction required pursuant to the MS4 Permit (Draft EIR, Page 5.8-48).

The Best Management Practices (BMPs) proposed as project design features include the use of bioswales, a sand cap under the golf course greens, green roofs, and extensive undisturbed and/or vegetated open space to reduce stormwater runoff volume through the infiltration of storm flows. The storm flows thus captured and infiltrated reduce the need for mechanical irrigation and support the re-establishment of native vegetation, allowing for an integrated approach to the protection of water quality and the reuse of water resources. In addition, the Project incorporates detention basins that also provide a treatment function for first flows, assuring that storm flows downstream are maintained onsite to avoid flooding. Because a lower aquifer is known to exist under some portion of the site, the use of both mechanical and non-mechanical retention and infiltration BMPs permits percolation of storm flows into the aquifer over time, ensuring its replenishment. This groundwater, pumped by six working wells, is used to supplement water supplied by Las Virgenes Municipal Water District for use in landscape irrigation. Irrigation water would be further supplemented by recycled water from the Project's onsite wastewater treatment facility. Pervious paving will replace over 50 percent of currently paved areas that are now impervious, increasing the amount of infiltration available on the site, consistent with County LID requirements (Draft EIR, Page 5.8-39).

ERB Recommendation #6 – Permanent Trail Easement

Incorporate a permanent trail easement in the project design.

As part of the Project, over 450 acres of native habitat would be left undisturbed and would become permanently dedicated open space (Biota Report, page 67). Rather than incorporate a permanent trail easement in the project design, the Project applicant has reached an agreement with the National Parks Service (NPS) to dedicate these 450 acres to the NPS for open space at which point NPS could consider expanding trails through the area.

ATTACHMENTS:

CD containing the Malibu Institute Biota Report, Draft EIR and minutes from the November 19, 2012 ERB.